

REMARKS

This paper is in response to the Office Action of June 24, 2004. The due date for response extends to September 24, 2004. Applicant respectfully requests reconsideration of the outstanding rejections in view of these Remarks and accompanying Affidavit.

Amendment

By this Amendment, claims previously withdrawn from consideration in response to the election of species requirement dated February 19, 2004 are canceled without prejudice. These claims are being canceled as directed on page 2, lines 9-11 of the final rejection dated June 24, 2004. These claims include claims 21, 22, 24, 25, 29, and 35-39. Claims 1-20 were previously canceled. Upon entry of the present Amendment, only claims 23, 26-28, 30-34, and 40 will be pending. No other amendments are made to the claims. No new matter has been entered. Entry of this Amendment is respectfully requested.

Prior Art Rejections

The office action dated June 24, 2004 contains rejections for all pending claims under consideration. Specifically, claims 26, 30, and 34 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication 2002/0118173 to Nacson ("Nacson"). Claims 23 and 40 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nacson. Claims 27, 31, and 33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nacson in view of U.S. Patent 6,476,375 to Nicoud et al. ("Nicoud"). Finally, claims 28 and 32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nacson in view of Nicoud and further in view of U.S. Patent 5,764,224 to Lilja et al., ("Lilja").

Nacson forms the basis of every rejection set forth in the office action. It is noted that Nacson was filed February 4, 2002 and relies for priority on a provisional patent application 60/270,612 filed on February 23, 2001. Thus, the effective date of Nacson is February 23, 2001. The present application was filed approximately 3 months after this effective date on May 30, 2001. However, the present invention was conceived on October 30, 2000 and documented on October 31, 2000. Please see the accompanying Declaration in accordance with 37 C.F.R. 1.131 and supporting evidence.


These documents prove a date of conception prior to the effective date of Nacson. Furthermore, they show the following sequence of events:

October 30, 2000	Conception (Section 5 of Exhibit 2).
October 31, 2000	Written description (Section 5 of Exhibit 2).
February 26, 2003	Transmission to Patent Attorneys (Date of Letter of Exhibit 3).
May 30, 2003	Application Filed.

Thus, it should be clear that conception of the invention prior to the effective date of Nacson is coupled with due diligence from prior to the effective date of Nacson to the filing date of the present patent application. Applicant respectfully submits that the submitted evidence is therefore sufficient to establish all that is required to antedate the reference Nacson in accordance with 37 C.F.R. § 1.131. Accordingly, Applicant respectfully suggests that Nacson should not be applied against the claims, and in absence of Nacson, the claims are allowable. A Notice of Allowance is therefore respectfully requested.

If the Examiner has any questions concerning the present amendment, the Examiner is kindly requested to contact the undersigned at (408) 749-6900 X6933. If any other fees are due in connection with filing this amendment, the Commissioner is also authorized to charge Deposit Account No. 50-0805 (Order No. SUNMP591). A duplicate copy of the transmittal is enclosed for this purpose.

Respectfully submitted,
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